

CHIEF ADMINISTRATIVE OFFICER

CH OF LOS ANGE CHOIF ADMINISTRATIVE C. FICE

#38

(213) 974-1101

April 15, 1996

To:

All Department Heads

From:

Sally R. Reed

Chief Administrative Officer

Subject:

LIABILITY COST ALLOCATION POLICY

This memorandum establishes Countywide policy regarding the allocation of department auto, general and medical malpractice liability costs. In order to bring all of the existing policies and procedures together with the new allocation and dispute resolution process recently adopted by the Board of Supervisors, we have prepared the attached Liability Cost Allocation Policy (LCAP) statement. The new dispute resolution process is outlined on pages 5 and 6 of the attachment.

The LCAP is designed to:

- increase department awareness of and accountability for liability costs.
- establish guidelines for cost apportionment when multiple County departments are involved in the same claim or lawsuit.
- give departments an opportunity to provide input regarding their respective share of responsibility.
- implement a procedural process to resolve department disputes concerning responsibility and funding.
- enable the County to take timely advantage of favorable settlement opportunities

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Application of the LCAP will ensure consistency in cost allocation and provide an avenue to timely resolve interdepartmental disputes so that an equitable distribution of costs among the involved parties may be achieved. The new dispute resolution process becomes effective immediately.

Questions regarding the LCAP may be addressed to Sharon Yonashiro at (213) 974-2273 or Rudy Alvarez at (213) 974-1417.

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Attachment

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DeWitt W. Clinton, County Counsel Executive Officer

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COUNTY OF LOS ANGELES: CHIEF ADMINISTRATIVE OFFICE

LIABILITY COST ALLOCATION POLICY

- POLICY OBJECTIVES: To make departments aware and accountable for liability costs resulting from their operations through an allocation method that is consistently and timely applied and understood by departments, and to provide a performance measurement and incentive for departments to reduce liability exposures and costs.
- II. SCOPE OF ALLOCATION: This plan allocates liability costs on an actual basis except for costs that are not identifiable to a specific department or for services that benefit the overall program.

The allocation plan will apply to auto, general (including police professional liability) and medical malpractice cases. Liability costs are financed through the General Fund, Special Districts and Trust Funds, and Hospital Enterprise Funds.

III. POLICY ADMINISTRATOR: This policy will be administered and monitored by the Chief Administrative Office (CAO) to determine if it is consistently and timely applied in accordance with the procedures listed below.

IV. BACKGROUND:

The Judgments & Damages/Insurance (unit) is a combination of two budgets: the Judgments & Damages (J&D) budget-administered by County Counsel and the Insurance budget-administered by the Chief Administrative Office - Risk Management Operations (RMO). The auto and general liability, and medical malpractice programs are administered by RMO. RMO is also responsible for administering the Contract Cities and Special Districts Trust Funds.

V. BILLING METHODOLOGY AND PRACTICE

In general, the County categorizes liability claims and lawsuits in the following manner:

Auto liability

Includes accidents involving a County vehicle or permittee vehicle, such as: intersection, backing or rearend collisions; emergency response and pedestrian related accidents.

General liability

Broad category which includes but is not limited to slips and falls/premises liability, employment related, civil rights or other liability associated with department operations or program administration.

Medical malpractice

Includes hospital liability.

Liability costs include expenses incurred by the County to investigate, defend and resolve claims and lawsuits associated with the above accident categories. To ensure accounting and billing consistency, liability costs are grouped in the following categories:

Indemnity

Settlements, Judgments, Structured Annuities

and Interest Costs.

Legal Fes & Expenses

Legal Defense Fees, Allocated Expenses (i.e., court reporter, witness fees, examinations, copy

services, etc.), Sanctions/Penalties.

Claims Administration

Third-Party Claims Administrators (TPAs),

contract counsel, and claims staff.

Overhead

County Program Administrators (CAO and County Counsel). Also included will be costs for the following: Corporate Systems, Internal Services Department (ISD) - Information Technology Services, Urban Research, and those costs associated with liability cases which are not associated with a specific County

department or its operations.

Special Projects

Claims and Performance Audits, Driver License

Program.

Indemnity and Legal Fees & Expenses costs will be billed on an actual cost basis, while Overhead. Claims Administration and Special Projects costs related to TPAs will be distributed Countywide based on each department's case count in relation to overall County costs.

Liability costs for cases involving multiple departments will be billed to the respective department based on an assessment of each department's liability. Costs for cases associated with services provided by one department for the benefit of another department will be charged to the provider department, unless the service agreement provides that the client department will assume responsibility for liability which arises out of the scope of the agreed upon services.

V. PROCEDURES:

Below are the policy guidelines for Judgments & Damages/Insurance:

- Expenditures incurred by RMO related to program administration of the Insurance budget will be billed to the Insurance budget and then expensed to departments.
- Judgments/Settlements and expenditures incurred by County Counsel associated with case preparation and defense such as attorney fees, expert witnesses, and other related costs will be billed to departments/districts unless costs cannot be identified to a case associated with a department/district for billing.

Programs involving third party administrators will be self supporting in that all costs are to be billed to departments/districts. RMO will review indemnity and administration costs for appropriateness. All liability costs to be paid from the Contract Cities and Special District Trust Funds will be processed through RMO.

Department/District should be billed all judgments/settlements including associated Intigation costs for which they are directly responsible. Costs on cases involving multiple departments will continue to be billed based on an assessment of each department's liability. This includes auto liability, medical malpractice, and general liability costs. Billings to general fund departments will not include Countywide overhead but will include departmental overhead costs. Departments must absorb costs above their budgeted amounts for both the J&D and Insurance budgets.

If a department indicates absorption of costs above their budgeted amounts in the J&D budget is not realistically possible, the department needs to contact its CAO budget analyst to discuss alternative solutions. Any requested use of the J&D central reserve requires the Chief Administrative Officer's or designee's approval. This provision will not apply to the Insurance budget.

RMO and County Counsel will continue to bill the Courts for auto and general liability costs for which they were given NCC in the decentralization of costs.

Exception: The majority of the Local Agency Formation Commission (LAFCO) legal costs deal with issues of County departments/districts. LAFCO therefore will not be billed for costs incurred on issues as a representative of the County on behalf of County departments/districts. The County department/district whose services are impacted will be billed.

4) Internal Services Department (ISD) will be billed for judgments/settlements and associated litigation costs on TPA administered cases for which they are responsible.

If a case (such as slip and falls) involves maintenance services provided by ISD, the client department will be billed unless ISD is determined to be the responsible department.

- 5) Judgments/settlements and associated litigation costs relating to Capital Projects will be evaluated on a case by case basis by the Chief Administrative Office to determine how these costs will be billed.
- 6) Expenditures from the J&D central reserve require the Chief Administrative Officer's or the Assistant Chief Administrative Officer's (or designee) approval.

The J&D central reserve has been established to pay for the following:

 All judgments/settlements for cases of a countywide nature. This includes all costs associated with defense of the case.

Examples: Redistricting or Search and Rescue Operations.

 Costs for special circumstance issues where the Board orders payment from the J&D budget.

Examples: Judge Kolts & Merrick Bobb follow-up of Sheriff Operations.

Superior and Municipal courts judgments/settlements and associated litigation costs for lawsuits not administered by TPAs. No NCC was distributed to these departments in the J&D decentralization.

If the Court specifically requests information/counsel from other attorneys outside the County, the Courts must pay for this expense.

The J&D central reserve may be used to cover one-time costs and/or departmental expenditures above the budgeted amounts for judgments/settlements and associated litigation costs at the Chief Administrative Officer's discretion.

The review process established to evaluate claims and lawsuits involving multiple departments is as follows:

- County departments will receive notice of multiple department cases from County Counsel or TPAs (Carl Warren or Professional Risk Management). Departments will be notified as soon as their potential involvement is known (in some cases, department involvement may not initially be apparent but is later revealed by County Counsel or TPA investigation). Information concerning these cases will also appear in department Liability Claims Information reports provided by the CAO.
- Upon notification of their involvement, departments should initiate their own review and provide relevant information and justification supporting their position regarding their share of responsibility.
- In the initial stages of the claims handling and/or legal defense process, County Counsel, defense counsel and the TPA will also evaluate the case and provide their opinions and recommendations of each department's liability.
- 4) If necessary, the Chief Administrative Office will convene a joint meeting with the involved departments, County Counsel, defense counsel and TPA to review the facts and circumstances of the incident, and to evaluate if apportionment of responsibility should be revised based on department input.

- In the event departments continue to disagree, the Chief Administrative Officer or designee will make a final determination as to the settlement and cost apportionment so that funding responsibility will not delay submission of an otherwise appropriate settlement to the Claims Board and, as appropriate, to the Board of Supervisors for approval.
- The Chief Administrative Officer will meet, if requested, with the respective Department Head to discuss the matter.
- VI. IMPLEMENTATION: This revised policy is effective April 11, 1996.

Prepared by:

Chief Administrative Office Risk Management Operations April 11, 1996

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